

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

FRANCISCO SOSA

v.

CA 05-123ML

ASHBEL T. WALL, Director of
Department of Corrections

MEMORANDUM AND ORDER

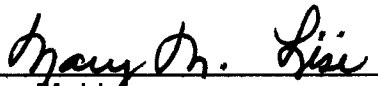
This Court has reviewed the Report and Recommendation issued by Magistrate Judge Almond and petitioner's Objection to the Report and Recommendation. The Court notes that the only portion of the Report and Recommendation to which petitioner has lodged an objection relates to his fifth claim for federal habeas relief, i.e., his assertion of ineffective assistance of counsel by his appellate counsel.

Magistrate Judge Almond, citing *Rhines v. Weber*, 125 S. Ct. 1528 (U.S. 2005) recommends that this Court not issue a "stay and abeyance" order to permit petitioner to litigate this unexhausted claim in state court. Petitioner's claim of ineffective assistance of counsel is premised solely on the alleged failure of petitioner's appellate counsel to inform him of the availability of post-conviction federal review. Magistrate Judge Almond found this unexhausted claim to be "plainly meritless." This Court agrees with that assessment.

Accordingly, this Court adopts the Report and Recommendation in its entirety.

The Petition is dismissed with prejudice.

SO ORDERED:



Mary M. Lisi
United States District Judge
June 30, 2005